



disease and acute kidney failure. She identified his work-related condition as melanoma.<sup>2</sup> The employee worked with the Atomic Energy Commission from July 2, 1962 through September 10, 1964. He retired on March 22, 1978 from the employing establishment. The death certificate listed the employee's cause of death as pneumonia and acute kidney failure.

Appellant submitted the employee's medical records. On August 17, 2009 the employee underwent a computerized tomography (CT) scan of the chest which demonstrated abnormalities concerning interstitial lung disease. The CT scan findings revealed fibrosis more than expected for his age with multiple bilateral pulmonary nodules. In a report dated August 24, 2009, Dr. Allen B. Adolphe, a Board-certified internist, reviewed the employee's CT scan findings and noted that he had been exposed to nuclear weapons in the distant past and stated, "whether this is in relation to that [the CT scan findings] is unknown."

Dr. Richard E. Crowell, a Board-certified pulmonologist, had examined the employee on September 17, 2009. The employee reported a history of smoking about two packs of cigarettes a day for 20 years. He also noted that he had worked for two years at the Atomic Energy Commission transporting radioactive and other types of waste. The employee stated that he wore a badge religiously and was never told that it exhibited any exposure problems. Dr. Crowell stated that the employee did not appear to have any unusual environmental or occupational exposures with regard to his interstitial lung changes.

The employee underwent a second CT scan of the chest on October 26, 2011 which demonstrated multiple pulmonary opacities largely similar to the prior CT scan, with a slight interval worsening of fibrotic lung disease. He also had new nonspecific ground-glass opacities. The medical records establish that the employee sought treatment from his physician on November 3, 2011 due to hypoxia and was sent to the hospital due to pneumonia. The employee requested a discharge but worsened at home and returned to the hospital where he was placed on mechanical ventilation. He was diagnosed with a history of interstitial lung disease of unknown etiology. The employee developed kidney dysfunction. The hospital records reflect that he died on December 12, 2011 with the diagnoses of respiratory failure, hypertension, sepsis, encephalopathy, anemia and diabetes.

In support of her claim, appellant stated that the employee worked as a courier for the Atomic Energy Commission transporting radioactive and explosive materials. She alleged that he was exposed to radiation, beryllium, asbestos powder, gaseous materials and other toxic substances. Appellant asserted that the employee left the Atomic Energy Commission to return to college. After graduation, the employee worked for the Air Force and retired from the Bonneville Power Administration in 1978. Appellant noted that the employee had 31 skin biopsies, 478 liquid nitrogen procedures and 3 Efudex skin treatments. The employee was diagnosed with two basal cell carcinomas, two melanomas, five squamous cell carcinomas and prostate cancer.

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<sup>2</sup> Appellant also filed a claim with the Energy Employees Occupational Illness Compensation Program Act on May 7, 2012.

By decision dated June 19, 2013, OWCP denied appellant's claim. It found that the medical evidence was insufficient to support a causal relationship between the employee's death and his federal employment with the Atomic Energy Commission.

Appellant requested reconsideration on September 28, 2013. She submitted a form report dated August 9, 2013 signed by Dr. Adolphe based on a December 12, 2009 examination of the employee. The report listed a history of prior exposure to "nuclear weapons" and diagnosed pulmonary fibrosis. Dr. Adolphe stated that the employee's pneumonia was exacerbated by underlying pulmonary fibrosis and acute renal failure. He indicated with a checkmark "yes" that the employee's death was due to exposure to the history of injury as listed.

By decision dated October 18, 2013, OWCP reviewed the merits of appellant's claim and denied modification of the June 19, 2013 decision. It found that the medical evidence was not sufficient to establish the causal relationship between the employee's diagnosed conditions resulting in his death and his federal employment exposures.

### **LEGAL PRECEDENT**

A claimant for compensation has the burden of proving by the weight of the reliable, probative and substantial evidence that the employee's death was causally related to his federal employment. This burden includes the necessity of furnishing medical opinion evidence of a cause and effect relationship based on a proper factual and medical background.<sup>3</sup>

The medical evidence required to establish a causal relationship, generally, is rationalized medical opinion evidence.<sup>4</sup> Rationalized medical opinion evidence is medical evidence which includes a physician's detailed opinion on the issue of whether there is a causal relationship between the claimant's diagnosed condition and the implicated employment factors. The opinion of the physician must be based on a complete factual and medical background of the claimant,<sup>5</sup> must be one of reasonable medical certainty,<sup>6</sup> and must be supported by medical reasoning explaining the nature of the relationship between the diagnosed condition and the specific employment factors identified by the claimant.<sup>7</sup>

### **ANALYSIS**

The employee, a former federal employee, died on December 12, 2011 after a month-long hospitalization. The death certificate listed the employee's cause of death as pneumonia and acute kidney failure. Appellant attributed the employee's death to employment-related

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<sup>3</sup> *Timothy Forsyth (James Forsyth)*, 41 ECAB 467, 470 (1990); *Carolyn P. Spiewak (Paul Spiewak)*, 40 ECAB 552, 560 (1989).

<sup>4</sup> *See Naomi A. Lilly*, 10 ECAB 560, 572-73 (1959).

<sup>5</sup> *William Nimitz, Jr.*, 30 ECAB 567, 570 (1979).

<sup>6</sup> *See Morris Scanlon*, 11 ECAB 384, 385 (1960).

<sup>7</sup> *See William E. Enright*, 31 ECAB 426, 430 (1980).

exposure to nuclear and explosive materials including radiation, beryllium, asbestos powder, gaseous materials and other toxic substances from 1962 through 1964.

Appellant provided medical reports generally discussing the relationship between the employee's diagnosed lung condition and his employment duties. The August 24, 2009 report from Dr. Adolphe noted that the employee was exposed to nuclear weapons. He stated, "whether this is in relation to that [the CT scan findings] is unknown." Dr. Adolphe did not provide a clear opinion that the employee's diagnosed condition was due to his employment exposures. Further, it was based on a physical examination in 2009, several years prior to the employee's death on December 12, 2011. Without a definite opinion on the relationship between the employee's employment and his diagnosed conditions and resulting death lacks probative value.

In his September 17, 2009 report, Dr. Crowell noted the employee's reported history of smoking about two packs of cigarettes a day for 20 years and working for 2 years for the Atomic Energy Commission transporting radioactive and other types of waste. He related the employee's statement that he wore a badge religiously and was never told that it exhibited any exposure problems. Dr. Crowell had found that the employee did not have any unusual environmental or occupational exposures in regard to his interstitial lung changes. This report does not support that the employee's contention that his employment caused or contributed to his diagnosed interstitial lung disease as Dr. Crowell discounted any employment exposures. As noted, it was submitted in 2009, several years prior to the employee's death.

Dr. Adolphe submitted a form report dated August 9, 2013 together with a clinic note from a January 12, 2009 examination. The employee listed a history of prior exposure to nuclear weapons and was diagnosed with pulmonary fibrosis. Dr. Adolphe stated that the employee's pneumonia was exacerbated by underlying pulmonary fibrosis and acute renal failure. He provided a checkmark "yes" that the employee's death was due to the history of injury as listed on the form. The Board has held that an opinion on causal relationship which consists only of a physician checking "yes" on a form report is of diminished probative value. Without any explanation or rationale for the conclusion reached, such report is insufficient to establish causal relationship.<sup>8</sup> Dr. Adolphe did not provide sufficient explanation for relating the employee's death to specific factors of his federal employment. Due to the insufficiency of medical evidence, appellant has failed to meet her burden of proof.

### **CONCLUSION**

The Board finds that appellant has not submitted the necessary rationalized medical opinion evidence to establish a causal relationship between the employee's exposure and his death and has not, therefore, met her burden of proof to establish her death benefits claim.

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<sup>8</sup> *Lucrecia M. Nielson*, 41 ECAB 583, 594 (1991).

**ORDER**

**IT IS HEREBY ORDERED THAT** the October 18, 2013 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: July 14, 2014  
Washington, DC

Colleen Duffy Kiko, Judge  
Employees' Compensation Appeals Board

Alec J. Koromilas, Alternate Judge  
Employees' Compensation Appeals Board

Michael E. Groom, Alternate Judge  
Employees' Compensation Appeals Board